THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 14931 OF 2001

DATED: 20-09-2005

Between

M/s. Shirdi Ice Industries,

Chinamamidipalli, Narsapur Mandal,

West Godavari District, rep. by its

Managing Partner, Mr. G.S.r. Krishna,

S/o,. Satyanarayana, Aged about 41 years.

..... PETITIONER

And

The Commercial Tax Officer,

Punjagutta, Hyderabad.

..... RESPONDENT

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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 14931 OF 2001

ORDER: (per Sri S. Ananda Reddy, J)

This writ petition is filed seeking writ of Mandamus declaring the action of the respondent in collection of tax of Rs.54,206/- for the assessment years 1993-94 and 1994-95 despite the sales tax holiday for the period from 16-12-1993 to 15-12-1998 granted in terms of the final eligibility certificate dated 08-02-1996 as arbitrary and illegal. The petitioner also sought for a direction to the respondent for refund of the said amount of Rs.54,206/- together with interest at 12% per annum.

The grievance of the petitioner is that the tax collected during the tax holiday period was not refunded in spite of the fact that there is no liability of the petitioner. Therefore, the petitioner sought for an order for the refund of the said amount.

The issue in question is no more *res integra* as it was already concluded by the decision of a Division Bench of this Court in ***MADRAS CEMENTS LTD. v. STATE OF A.P***, wherein it was held that when a dealer was granted final eligibility

certificate and if any tax amount is collected during the period of tax holiday, the said amount would be adjusted in terms of G.O Ms. No. 18
dated 30-01-1997 at the end of the tax holiday period and the dealer is not entitled for the refund of the amount or even for adjustment during the period of tax holiday. In view of the same, the petitioner is not entitled for any relief.

However, at the time of hearing, it is represented that an application was filed by the petitioner – dealer for adjustment of the amount. If such an application is filed and pending before the respondent, the respondent is directed to consider the same for adjustment of the said amount of Rs.54,206/- against any liability after the completion of the tax holiday period i.e. after 15-12-1998 in terms of the final eligibility certificate and pass appropriate orders. The writ petition is accordingly dismissed. No order as to costs.

(B. Sudershan Reddy, J)

20..09..2005

(S. Ananda Reddy, J)

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